



May 27, 2004

Honorable Raymond Krause  
Chief Administrative Law Judge  
Office of Administrative Hearings  
100 Washington Square, Suite 1700  
Minneapolis, Minnesota 55401-2138

Re: Site Permit for Blue Lake Expansion  
Route Permit for Transmission Line  
OAH Docket No. 2-2500-15828-2  
EQB Docket No. 04-75-PPS-Xcel

Dear Judge Krause:

The Environmental Quality Board staff wanted to submit these comments for your consideration in preparing your final report and recommendation for the EQB Board. There are several matters to bring to your attention that may help you review the administrative record in this case

### **1. Applicable Rules.**

The rules of the EQB that apply to this proceeding are found in Minn. Rules chapter 4400. The particular sections are parts 4400.2000 to 4400.2950, because this project qualifies for alternative review under the Power Plant Siting Act. Minn. Stat. § 116C.575.

### **2. Procedural Requirements.**

The statutes and rules establish a number of procedural requirements the EQB and the applicant must follow in processing the permit application. The Exhibits that the EQB staff introduced into the record demonstrate that all procedural steps were followed. No person has raised any question about the process that was followed in this case.

### **3. Site Selection.**

The EQB's task here is to identify a site for the two new turbines proposed by Xcel Energy. The only site under review is the Blue Lake site. In the Environmental Assessment, the EQB did not consider any other sites; the EQB only addressed the potential impacts of constructing two new turbines at Blue Lake. Therefore, if the Public Utilities Commission determines that a certificate of need should be issued for 320 megawatts of power generated by natural gas, the Blue Lake site is the place where these turbines will be installed.



#### **4. Route Selection**

Xcel must also obtain a Route Permit for the 230/161 kV double circuit line to connect the Blue Lake Plant with the transmission grid. Four routes have been evaluated in this proceeding – the route preferred by Xcel and three alternative routes. The EQB's task is essentially to identify the route that minimizes the human and environmental impacts associated with the new transmission line. The statute (Minn. Stat. § 116C.57, subd. 4) and the rule (Minn. Rules part 4400.3150) set forth a number of factors to consider in evaluating alternative routes. The application and the Environmental Assessment provide the information to consider in evaluating the different alternative routes under review here.

Minn. Rules part 4400.3350 identifies some areas that are off limits for transmission lines. None of those areas is involved here.

Regardless of which route is recommended, it is important to describe the route with specificity. You can rely on the information in the Environmental Assessment to describe in your report the specific route that you recommend.

#### **5. Permit Conditions**

Any Site Permit or Route Permit issued by the EQB will contain conditions. Many of these conditions are boilerplate terms that are included in all permits issued by the EQB. However, if there are any special conditions that you determine would be appropriate to include in either of the permits to be issued, you can identify those in your report and explain the rationale for including them. The EQB staff will likely make recommendations to the Board on appropriate conditions to include. We describe below two recent decisions by the EQB Board on permits for new projects. These documents may be helpful to you in seeing the kind of conditions the EQB has included in other permits for large energy projects.

#### **6. Environmental Assessment**

The EQB has prepared an Environmental Assessment in this matter. The EQB rules provide that at the time the EQB makes a final decision on the permit, the Board should also determine whether the EA and the administrative record address the issues identified in the scoping decision. Minn. Rules part 4400.2950, subp. 2. While it is not necessary for you to make any recommendation regarding the EA, you may certainly elect to provide a recommendation on that point if you choose to do so.

## **7. Certificate of Need**

Xcel Energy is required to obtain a certificate of need for the proposed installation of the two new turbines. Minn. Stat. § 216B.243. A decision on the certificate of need must be made before the EQB will issue a site permit. Minn. Stat. § 216B.243, subd. 4 and Minn. Rules part 4400.2950, subd. 3. Of course, although a certificate of need is not required for the new transmission line or the proposed pipeline, these facilities depend on the PUC issuing a certificate of need for the plant expansion.

## **8. Timing**

As just mentioned, the EQB cannot issue a permit until the PUC has issued a certificate of need. The EQB Board meets on the third Thursday of the month. The next regular meeting is set for June 17. The PUC will have to make its decision on the certificate of need by June 17 if the EQB Board is to act on that day. The agenda for the June meeting is set on June 10 and the material for the agenda items is mailed to the Board on June 10 also. In order for this matter to make the regular June meeting, the staff must have the judge's report in hand by no later than June 7, to allow for consideration of the report and preparation of materials for the Board. The EQB Chair can call a special Board meeting on three days notice. Minn. Rules part 4405.0600, subp. 4.

## **9. Recent EQB Permitting Decisions**

You should be aware that in the last few weeks the EQB Board issued permits for two large energy projects for which a public hearing was held and presided over by an administrative law judge. One matter is the Great River Energy proposed 115 kV transmission line in Hennepin County. That matter is OAH Docket No. 3-2901-15763-2, and Judge Kathleen Sheehy presided at that hearing. The EQB Docket number is 03-65-TR- GRE PMG. On May 20, 2004, the EQB Board adopted Findings of Fact, Conclusions, and Order and issued a Route Permit to Great River Energy identifying the route for the line and including certain conditions.

Also on May 20, the Board adopted Findings of Fact, Conclusions, and Order and issued a Site Permit for a proposed new power plant in Faribault, Minnesota. That matter is OAH Docket 15-2901-15778-2 and Judge Beverly Jones Heydinger was the Administrative Law Judge. The EQB Docket Number is 02-48-PPS-FEP. In addition, the Board also issued a Route Permit for a short transmission line to connect the new power plant to a nearby transmission line. The Route Permit application was not heard by an ALJ but the Board did adopt Findings of Fact, Conclusions, and Order in addition to issuing a permit.

Honorable Raymond Krause

May 27, 2004

Page 4

I have enclosed copies of the findings and the permits from the GRE high voltage transmission line project and the Faribault project. These documents are also available on the EQB webpage: <http://www.eqb.state.mn.us/> Review of these documents may be of assistance to you with regard to certain generic issues, such as electro-magnetic fields (EMF), and with regard to the format the EQB has developed for findings and permits. Of course, any specific issues relating to either of these two projects have no applicability to the Blue Lake Project.

In conclusion, we hope that this discussion is helpful to you in reviewing the record and preparing your report and recommendation. We will serve a copy of this letter upon Xcel, the Department of Commerce, and the Public Utilities Commission and upon those persons who are on the EQB Project Contact List. We will also post it on the EQB webpage.

Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Mitchell". The signature is fluid and cursive, with the first name "Alan" and last name "Mitchell" clearly distinguishable.

Alan Mitchell

cc: (without attachments)  
EQB Project Contact List  
Jim Alders, Xcel Energy  
Michael Krikava, Esq.  
Julia Anderson, Asst Atty Gen.  
David Jacobson, PUC